



Senate

General Assembly

January Session, 2015

File No. 615

Senate Bill No. 1050

Senate, April 13, 2015

The Committee on Energy and Technology reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING ABANDONED ELECTRIC GENERATING FACILITIES AND CORPORATE RESPONSIBILITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) As used in this
2 section:

3 (1) "Electric generating facility" means an electric generating facility
4 described in subdivision (3) of subsection (a) of section 16-50i of the
5 general statutes, but does not include a nuclear power generating
6 facility.

7 (2) "Decommission" means the process undertaken at the time an
8 electric generating facility is permanently retired from service to
9 ensure that the decontamination, dismantlement, removal and
10 disposal of the facility, including the facility site and any components
11 and materials associated with the facility, are accomplished in
12 compliance with all applicable state and federal laws, and to ensure
13 that such final disposition does not pose any threat to the public health

14 and safety.

15 (3) "Retirement" as related to an electric generating facility means a
16 facility (A) that has not generated electric power for a period of six
17 months or more, (B) for which the facility owner no longer has a power
18 purchase agreement to sell electric power generated by the facility, and
19 (C) that is not considered by the regional independent system
20 operator, as defined in section 16-1 of the general statutes, to be
21 necessary or capable of servicing the region's electric reliability needs.

22 (b) (1) Not later than six months after the retirement of an electric
23 generating facility on or after the effective date of this section, the
24 facility owner shall submit a plan to the Public Utilities Regulatory
25 Authority to sell, transfer, reenergize or decommission the facility.

26 (2) In the case of retirement of an electric generating facility before
27 the effective date of this section, the owner of the facility shall submit
28 such a plan to the authority not later than six months after the effective
29 date of this section.

30 (3) Upon submission of a plan under subdivision (1) or (2) of this
31 subsection, the electric generating facility owner shall have two years
32 to execute such plan.

33 (4) During the two-year period, the electric generating facility owner
34 shall provide the authority and the municipality where the facility is
35 situated with a status report every six months regarding its progress
36 toward completing such plan.

37 (c) The Public Utilities Regulatory Authority shall adopt regulations
38 in accordance with the provisions of chapter 54 of the general statutes
39 to carry out the purposes of this section.

40 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) As used in this section:
41 "Abandoned electric generating facility" means a facility (A) that has
42 not generated electric power for a period of two years or more, (B) for
43 which the facility owner no longer has a power purchase agreement to
44 sell electric power generated by the facility, and (C) that is not

45 considered by the regional independent system operator, as defined in
46 section 16-1 of the general statutes, to be necessary or capable of
47 servicing the region's electric reliability needs.

48 (b) (1) Not later than six months after the effective date of this
49 section, the owner of an abandoned electric generating facility shall
50 submit a plan to the Public Utilities Regulatory Authority to sell,
51 transfer, reenergize or decommission the facility.

52 (2) Upon submission of a plan under subdivision (1) of this
53 subsection, the Public Utilities Regulatory Authority shall issue an
54 order prescribing a time period, not exceeding one year and without
55 the possibility of extension, for the facility owner to sell, transfer,
56 reenergize or decommission the facility.

57 (3) If the facility owner fails to meet the conditions prescribed in the
58 authority's order, the authority shall assess a civil penalty in
59 accordance with section 16-41 of the general statutes.

60 (4) Each distinct violation of the authority's order shall be a separate
61 offense and, in case of a continued violation, each day thereof shall be
62 deemed a separate offense.

63 (c) (1) Any town may exercise the power of eminent domain over
64 the tract of land where an abandoned electric generating facility is
65 situated for the purposes described in sections 48-3, 48-5, 48-7 and 48-8
66 of the general statutes.

67 (2) The town is exempt from all costs for environmental remediation
68 pertaining to such land.

69 (3) Liability for all environmental remediation costs shall revert to
70 the former owner of the abandoned electric generating facility.

71 Sec. 3. Subdivision (2) of subsection (a) of section 16-50l of the
72 general statutes is repealed and the following is substituted in lieu
73 thereof (*Effective October 1, 2015*):

74 (2) In the case of facilities described in subdivision (3) of subsection
75 (a) of section 16-50i: (A) A description of the proposed electric
76 generating or storage facility; (B) a statement and full explanation of
77 why the proposed facility is necessary; (C) a statement of loads and
78 resources as described in section 16-50r; (D) safety and reliability
79 information, including planned provisions for emergency operations
80 and shutdowns; (E) estimated cost information, including plant costs,
81 fuel costs, plant service life and capacity factor, and total generating
82 cost per kilowatt-hour, both at the plant and related transmission, and
83 comparative costs of alternatives considered; (F) a schedule showing
84 the program for design, material acquisition, construction and testing,
85 and operating dates; (G) available site information, including maps
86 and description and present and proposed development, and
87 geological, scenic, ecological, seismic, biological, water supply,
88 population and load center data; (H) justification for adoption of the
89 site selected, including comparison with alternative sites; (I) design
90 information, including a description of facilities, plant efficiencies,
91 electrical connections to the system, and control systems; (J) a
92 description of provisions, including devices and operations, for
93 mitigation of the effect of the operation of the facility on air and water
94 quality, for waste disposal, and for noise abatement, and information
95 on other environmental aspects; [and] (K) a listing of federal, state,
96 regional, district and municipal agencies from which approvals either
97 have been obtained or will be sought covering the proposed facility,
98 copies of approvals received and the planned schedule for obtaining
99 those approvals not yet received; and (L) a decommissioning plan,
100 including the projected useful life of the facility, identification of any
101 circumstances that would trigger decommissioning of the facility in
102 advance of the end of the projected useful life of the facility, a
103 description of the method by which foundations, associated equipment
104 and components will be dismantled and removed, a description of the
105 method by which the site will be restored as near as possible to its
106 original condition, including, stabilization, regrading and revegetation,
107 an estimate of the total cost of implementing the decommissioning
108 plan calculated by a certified professional engineer based on the

109 projected useful life and the projected salvage value of the facility, and
110 financial assurance that sufficient funds are available for
111 decommissioning the facility. For the purposes of this subparagraph,
112 financial assurance may include a performance bond, surety bond,
113 letter of credit, corporate guarantee, escrow, deposit, insurance,
114 certificate of deposit, domestic security, trust, any combination of such
115 financial devices or any other form of financial device that is
116 acceptable to the council to ensure sufficient funds are available for
117 decommissioning the facility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section
Sec. 2	October 1, 2015	New section
Sec. 3	October 1, 2015	16-501(a)(2)

ET *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Public Utility Control, Dept.	CC&PUCF - Potential Revenue Gain	See Below	See Below

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	Potential Savings	Significant	Significant

Explanation

The bill requires power plant developers to include decommissioning plans with their application for a Siting Council certificate. The bill also requires retired and abandoned power plants to submit a plan to the Public Utilities Regulatory Authority (PURA) to sell, transfer, reenergize or decommission the plant within two years. PURA is required to issue an order giving the facility owner up to one year to sell, transfer, reenergize or decommission the facility. This provision would have no fiscal impact on PURA.

Failure to comply would allow PURA to fine the owner up to \$10,000 each day the plant is out of compliance. The amount of revenue gain would depend on the amount of violations and the number of days in violation.

The bill also exempts municipalities from costs associated with environmental remediation of land taken by eminent domain and formerly used as an electric generation facility. It requires the previous

owner of such land to pay for any remediation.

To the extent that municipalities take land formerly used as electric generation facilities by eminent domain, there is a savings associated with the exemption from environmental remediation costs. Such savings could be significant, depending on the extent of remediation necessary.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 1050*****AN ACT CONCERNING ABANDONED ELECTRIC GENERATING FACILITIES AND CORPORATE RESPONSIBILITY.*****SUMMARY:**

This bill (1) creates requirements for power plants and other electric generating facilities that no longer produce power and (2) requires developers of power plants to include decommissioning plans with their application for a Siting Council certificate.

It requires owners of certain retired power plants that have not generated power in at least six months to submit a plan to the Public Utilities Regulatory Authority (PURA) to sell, transfer, reenergize, or decommission the power plant within two years.

For abandoned electric generating facilities that have not generated power in at least two years, the bill requires the facility's owner to submit a plan to PURA to sell, transfer, reenergize, or decommission the facility. Under the bill, when PURA receives the plan, it must issue an order giving the facility owner up to one year to sell, transfer, reenergize, or decommission the facility. The bill establishes penalties for failure to comply with PURA's order.

Finally, the bill specifies that towns can exercise eminent domain over the abandoned facility's tract of land for certain uses already permissible by law. It exempts towns from environmental remediation costs and reverts liability for such costs to the abandoned facility's former owner.

EFFECTIVE DATE: October 1, 2015

DECOMMISSIONING PLAN

By law, developers of certain electric generating and storage

facilities (e.g., fossil fuel and nuclear power plants) must obtain a Siting Council certificate in order to construct the facility, with certain exceptions (see BACKGROUND). The bill requires these developers to include a decommissioning plan in their application for a certificate. The plan must include:

1. the plant's projected useful life;
2. any circumstances that would trigger the plant's decommissioning before the end of its projected useful life;
3. a description of how foundations, associated equipment, and components will be dismantled and removed;
4. a description of how the site will be restored as near as possible to its original condition, including (a) stabilization, (b) regrading, and (c) revegetation;
5. an estimate of the total cost of implementing the decommissioning plan, as calculated by a certified professional engineer based on the plant's projected useful life and salvage value; and
6. financial assurance that sufficient funds are available for decommissioning.

Under the bill, financial assurance may include any combination of:

1. a performance bond,
2. a surety bond,
3. a letter of credit,
4. a corporate guarantee,
5. an escrow,
6. a deposit,

7. insurance,
8. a certificate of deposit,
9. a domestic security,
10. a trust, or
11. any other form of financial device acceptable to the Siting Council to ensure sufficient funds are available to decommission the plant.

RETIRED POWER PLANTS

The bill creates certain requirements for retired power plants, other than nuclear power plants, that require Siting Council certificates. Under the bill, a “retired” power plant:

1. has not generated electric power for at least six months;
2. no longer has a power purchase agreement to sell electric power generated by the plant; and
3. according to the regional independent system operator (i.e., ISO-New England), is not necessary or capable of servicing the region’s electric reliability needs.

Plan Requirement

Within six months after a plant meets the above description, the bill requires its owner to submit a plan to PURA to sell, transfer, reenergize, or decommission it. Under the bill, decommissioning occurs when the power plant is permanently retired from service and includes (1) the decontamination, dismantlement, removal, and disposal of the facility, including its site and associated components and material, in accordance with state and federal law and (2) ensuring that the final disposition poses no threat to public health and safety.

For plants that have retired before the bill takes effect, the bill requires owners to submit a plan to PURA within six months after the

bill is enacted. The bill does not specify whether power plants that have been converted to other uses are subject to this requirement.

Under the bill, once a plant owner submits such a plan to PURA, he or she has two years to execute the plan and must report on its status and progress every six months to PURA and the municipality where the plant is located.

The bill requires PURA to adopt regulations to carry out these provisions.

ABANDONED ELECTRIC GENERATING FACILITIES

The bill also requires owners of abandoned electric generating facilities to submit to PURA a plan to sell, transfer, reenergize, or decommission the facility. (The bill does not specify whether these facilities are only those that need a Siting Council certificate or include nuclear power plants.) Under the bill, an abandoned electric generating facility:

1. has not generated electric power for at least two years;
2. no longer has a power purchase agreement to sell electric power generated by the facility; and
3. according to ISO-New England, is not necessary or capable of servicing the region's electric reliability needs.

The bill requires PURA, when it receives such a plan, to issue an order giving the facility's owner up to one year to sell, transfer, reenergize, or decommission the facility. The bill prohibits PURA from extending the deadline. The bill does not define "decommission" for this provision.

Penalties

The bill requires PURA to assess up to a \$10,000 per day civil penalty on any abandoned plant owner who fails to meet the conditions in PURA's order. Under the bill, each distinct violation of PURA's order and each day of a continued violation are separate

offenses (see BACKGROUND).

Eminent Domain and Environmental Costs

By law, towns can exercise eminent domain for various purposes, including taking or condemning land for:

1. a town house or town hall, including (a) the site or an addition to the site that is necessary or convenient for the purpose, (b) necessary outbuildings and convenient accommodations for them, and (c) light and air for them;
2. school houses and other school programs, with the same powers and regulations as school districts;
3. a public square, common, or park, if the town cannot reach an agreement with the landowner; and
4. a building to protect town records against fire.

The bill specifies that towns may also exercise eminent domain for these purposes over the tract of land where an abandoned electric generating facility is located. The bill exempts towns from all costs of environmental remediation of the land and reverts liability for such costs to the former owner of the abandoned power plant.

BACKGROUND

Exceptions to the Requirement for a Siting Council Certificate

By law, a Siting Council certificate is not needed to install or build emergency generating devices or certain smaller generating or storage facilities that use renewable energy sources or cogeneration technology and are owned and operated by private power producers for their own use.

PURA Jurisdiction over Generating Facilities

CGS § 16-41 authorizes PURA to fine utilities, electric suppliers, and other entities under its jurisdiction for violations of state law concerning utilities. Generally, PURA does not have oversight over

electric generating facilities. PA 98-28 restructured the electric industry to allow consumers to choose an electric supplier other than their electric company, and, in doing so, removed electric generating facilities from PURA's jurisdiction.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 21 Nay 2 (03/24/2015)